

LAWLER, METZGER & MILKMAN, LLC

1909 K STREET, NW  
SUITE 820  
WASHINGTON, D.C. 20006

PHONE (202) 777-7700  
FACSIMILE (202) 777-7763

March 20, 2000

**By Hand**

Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW - Room TW-B-204  
Washington, DC 20554

RECEIVED

MAR 20 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

RE: In the Matter of Inquiry Concerning the Deployment of  
Advanced Telecommunications Capability to All Americans  
In a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such  
Deployment Pursuant to Section 706 of the Telecommunications Act of 1996  
CC Docket No. 98-146

Dear Ms. Salas:

Enclosed for filing in the above-referenced proceeding are an original and four copies of the Comments of NorthPoint Communications, Inc.

Please date-stamp the additional copy provided herewith for that purpose and return the same to the bearer. Thank you for your assistance.

Sincerely,



Valerie Yates

Enclosures

No. of Copies rec'd 014  
List ABCDE

---

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

In the Matter of )  
 )  
 Inquiry Concerning the Deployment of )  
 Advanced Telecommunications )  
 Capability to All Americans in a )  
 Reasonable and Timely Fashion, and )  
 Possible Steps to Accelerate Such )  
 Deployment Pursuant to Section 706 of )  
 the Telecommunications Act of 1996 )

**RECEIVED**  
 MAR 20 2000  
 FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

CC Docket No. 98-146

**COMMENTS OF**

**NORTHPOINT COMMUNICATIONS, INC.**

**I. INTRODUCTION**

As we stated in our comments to the first Inquiry<sup>1</sup> undertaken by the Commission pursuant to section 706 of the Communications Act of 1934,<sup>2</sup> NorthPoint Communications, Inc. ("NorthPoint") is a national facilities-based competitive local exchange carrier (competitive LEC) founded on the principle underlying section 706: that Americans need broadband access. NorthPoint remains focused exclusively on providing broadband access using Digital Subscriber Line technology.<sup>3</sup> We submit these comments to update the Federal Communications Commission ("Commission") on the status of NorthPoint's broadband deployment and current business plans as well as to provide feedback on recent decisions of the Commission that have

---

<sup>1</sup> See *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996*, CC Docket No. 98-146, *Notice of Inquiry*, FCC 98-187 (rel. Aug. 7, 1998) ("First 706 Inquiry"); *Report*, 14 FCC Rcd 2398 (1999) ("1999 706 Report").

<sup>2</sup> Telecommunications Act of 1996, Pub. Law No. 104-104, 110 Stat. 56, amending the Communications Act of 1934, codified at 47 U.S.C. § 151 *et seq.*, at § 706, codified in the notes under 47 U.S.C. § 157.

<sup>3</sup> NorthPoint Comments, CC Docket No. 98-146 (filed Sep. 14, 1998) at 1.

reduced barriers to the deployment of advanced services that NorthPoint and other commenters have raised in various proceedings.

## **II. NORTHPOINT HAS MADE LOW COST, HIGH SPEED INTERNET ACCESS A REALITY**

In our comments to the Commission's first Advanced Services Inquiry, NorthPoint described its success in raising millions of dollars in capital from leading venture capital firms and corporate investors, demonstrating the private sector's confidence that xDSL services would play "a crucial role in satisfying consumers' bandwidth needs and that access to capital is not a constraint on widespread deployment of xDSL technology."<sup>4</sup> At that time, NorthPoint's SDSL service was available in San Francisco, Los Angeles, and Boston.<sup>5</sup> NorthPoint stated its intention to roll out service in more than 20 states over the next two years<sup>6</sup> and reported that it was adding new cities at "the rate of almost one per month."<sup>7</sup> In its first phase of development, NorthPoint focused on building its network, which, at that time, consisted of securing over 1,100 central office spaces nationwide.

Now in its second stage of growth, NorthPoint is focused on increasing market penetration, entering new markets, adding substantially to central office space holdings, and rapidly growing its base of installed customer lines. NorthPoint currently operates DSL-based local networks in 33 major U.S. markets, spanning 62 metropolitan areas (MSAs), which include 44 states.<sup>8</sup> NorthPoint ended 1999 with the fastest subscriber growth rate among national DSL

---

<sup>4</sup> NorthPoint Comments, *supra* n. 3, at 1.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 4.

<sup>8</sup> See <http://www.northpointcom.com/services/regions.html> for a map of NorthPoint's coverage.

service providers and a network that passes more homes and businesses than any other broadband service provider. As of December 31, 1999, NorthPoint had 23,500 DSL subscribers and had secured collocation space in more than 1,560 central offices, 1,027 of which were fully operational. The number of homes and businesses passed was approximately 31 million (up from 22 million in September 1999). NorthPoint is currently adding cities at a rate of about three per month. By the end of 2000, NorthPoint expects to reach over 60 markets and 110 MSAs. At that time, NorthPoint's network will pass nearly 45 percent of homes and more than half of all businesses in the U.S. NorthPoint has raised nearly \$1.2 billion to date to fund its aggressive network expansion, to enter new markets, and to develop new products and services.<sup>9</sup>

NorthPoint currently provides DSL-based Internet access service at speeds up to 1.5 Megabits per second (Mbps).<sup>10</sup> Using its SDSL and ADSL products, NorthPoint can service customers located up to 18,000 feet from the central office.<sup>11</sup> With its IDSL service, which is limited to 160 Kbps, NorthPoint can serve customers up to 36,000 feet from the central office. At present, these technical distance limitations remain an obstacle to NorthPoint's ability to serve certain customers.

---

<sup>9</sup> For example, NorthPoint's "Blast" Initiative, which is expected to begin rolling out this summer, will dramatically improve the way consumers and businesses experience streaming media and other content and applications over the Internet. See, e.g., "NorthPoint Launches 'Blast' with Team of Broadband Content Leaders, Feb. 15, 2000, [http://www.northpointcom.com/pressroom/2000/press\\_000215\\_a.html](http://www.northpointcom.com/pressroom/2000/press_000215_a.html); "Into Networks Partners with NorthPoint to Deliver Software-on-Demand Over DSL," NorthPoint Communications Investor Relations, Feb. 16, 2000; "NorthPoint Communications and ClearBand Announce Strategic Alliance to Bring TV-Quality Video to Broadband Subscribers," NorthPoint Communications Investor Relations, Feb. 15, 2000. NorthPoint's investor relations press releases are available on the Internet. [http://www.corporate-ir.net/ir/cv/ir\\_site.zhtml?ticker=npnt&script=400](http://www.corporate-ir.net/ir/cv/ir_site.zhtml?ticker=npnt&script=400).

<sup>10</sup> NorthPoint offers SDSL service at 44 Kbps, 160 Kbps, 200 Kbps, 416 Kbps, 784 Kbps, 1.04 Mbps, and 1.5 Mbps. NorthPoint expects to provide ADSL service at speeds up to 7.0 Mbps. In many areas, however, deployment will be limited to 1.5 Mbps due to distance limitations.

<sup>11</sup> In its Comments to the *First 706 Inquiry*, NorthPoint reported that its SDSL product could serve customers located up to 24,000 feet from the central office. NorthPoint Comments, *supra* n.3, at 2. Theoretically, this distance

In the third business phase, NorthPoint will focus on layering value-added products and services over its national network and installed line base while extending its marketing efforts directly to residential customers.<sup>12</sup>

### **III. RECENT COMMISSION DECISIONS HAVE FACILITATED THE DEPLOYMENT OF ADVANCED SERVICES**

In response to the first Commission Inquiry regarding the deployment of advanced services, NorthPoint stated that the greatest barriers to deployment were issues requiring regulatory intervention, including access to collocation space and unbundled xDSL-capable loops and excessive prices charged by incumbent LECs for unbundled network elements.<sup>13</sup> NorthPoint was hopeful that the Commission's then-pending proposals in the Advanced Services proceeding regarding collocation and line-sharing, if adopted, would help reduce these barriers.<sup>14</sup>

NorthPoint is pleased to report that, in a series of decisions, the Commission has issued rules that go a long way towards removing the obstacles DSL competitive LECs face in providing broadband services. In particular, DSL competitive LECs benefit from the strengthened collocation rules, which allow for shared cage and cageless collocation as well as collocation in an adjacent location where space is exhausted at a particular LEC location.<sup>15</sup> In addition, by clarifying that an incumbent LEC must provide conditioned loops (*i.e.* loops stripped of accreted devices) wherever a competitor requests, even if the incumbent LEC is not

---

is attainable. As a practical matter, however, NorthPoint's deployment is generally limited to customers located within 18,000 feet of the central office due to costs associated with conditioning loops, among other factors.

<sup>12</sup> Prior to the fourth quarter of 1999, NorthPoint did offer products specifically designed for the residential market. Nevertheless, residential customers constitute approximately 25% of its customer base.

<sup>13</sup> NorthPoint Comments, *supra* n. 3, at 3-5.

<sup>14</sup> *Id.* at 3-4.

<sup>15</sup> Deployment of Wireline Services Offering Advanced Telecommunications Capability, *First Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 98-147, 14 FCC Rcd 4761 (1999).

itself offering xDSL service to the customer on that loop,<sup>16</sup> the Commission has reduced the ability of incumbent LECs to preclude DSL competitive LECs from offering high-speed Internet access services.

Finally, and perhaps most importantly, the Commission amended its unbundling rules to enable DSL competitive LECs to provide xDSL services through telephone lines that the competitive LECs can share with incumbent LECs.<sup>17</sup> Prior to line sharing, competitive DSL providers were forced to purchase second, costly stand-alone lines to deliver DSL-services, while the incumbent LECs provided DSL services using shared lines at a fraction of the cost. By giving NorthPoint, and other competitive LECs, access to shared lines to provide DSL service, the Commission has significantly expanded NorthPoint's addressable market and paved the way for eliminating the very substantial price advantage incumbent LECs enjoyed.

Through these actions, the Commission has dramatically increased the likelihood of increased deployment of DSL services and further competition in the residential DSL market. NorthPoint has moved aggressively to take advantage of the opportunity to make its DSL service available to more consumers. On March 1, 2000, NorthPoint announced that it was ready to deliver the benefits of line sharing to residential customers in Dallas, Chicago, San Jose, and New York.<sup>18</sup> It is important to keep in mind, however, that the significance of these decisions,

---

<sup>16</sup> Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, *Third Report and Order and Fourth Further Notice of Proposed Rulemaking*, CC Docket No. 96-98, FCC 99-238 (rel. Nov. 5, 1999).

<sup>17</sup> Deployment of Wireline Advanced Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, *Third Report and Order in CC Docket No. 98-147, Fourth Report and Order in CC Docket No. 96-98*, FCC 99-355 (rel. Dec. 9, 1999).

<sup>18</sup> "NorthPoint Delivers Choice to DSL Residential Customers Using Line Sharing," NorthPoint Communications Investor Relations, Mar. 1, 2000 ("By capitalizing on line sharing, NorthPoint will be able to deliver a host of advanced entertainment and productivity-enhancing applications at a speed and quality that vastly exceeds today's standard dial-up services.") NorthPoint's press releases are available on the Internet.

with respect to the ability of DSL competitive LECs to provide advanced services, depends upon the Commission's continuing commitment to ensure prompt implementation and vigorous enforcement of its rules. In particular, it is vitally important that the Commission make certain that the market-opening requirements of section 271 of the Act<sup>19</sup> have been met prior to granting a Regional Bell Operating Company authority to provide in-region interLATA service.<sup>20</sup>

#### **IV. THE DEFINITION OF BROADBAND SERVICE SHOULD INCLUDE XDSL SERVICE**

The Commission currently defines lines capable of providing 200 Kilobits per second (Kbps) in both directions as having "advanced telecommunications capability."<sup>21</sup> Lines that provide 200 Kbps in only one direction are termed "one-way" broadband service. As we stated in our comments to the Local Competition and Broadband Reporting proceeding,<sup>22</sup> "the Commission's distinction between one-way broadband and full broadband capability may not have much practical relevance, particularly for residential subscribers."<sup>23</sup> Moreover, NorthPoint commented that the deployment of so-called one-way broadband services "is an important indicator for assessing whether the advanced services marketplace is developing sufficiently and whether regulatory intervention (whether in the form of increased regulation or regulatory relief)

---

[http://www.corporate-ir.net/ircyc/ir\\_site.zhtml?ticker=npnt&script=400](http://www.corporate-ir.net/ircyc/ir_site.zhtml?ticker=npnt&script=400). Additional NorthPoint press releases can be found at <http://www.northpointcom.com/pressroom/index.html>.

<sup>19</sup> 47 U.S.C. § 271.

<sup>20</sup> See NorthPoint Reply Comments in CC Docket No. 00-4 (filed Feb. 22, 200) (expressing concern about Southwestern Bell Telephone Company's attempt to use "paper promises" to demonstrate compliance with section 271 of the Act.)

<sup>21</sup> 1999 706 Report, 14 FCC Rcd at 2406.

<sup>22</sup> Local Competition and Broadband Reporting, *Notice of Proposed Rulemaking*, CC Docket No. 99-301, FCC 99-283 (rel. Oct. 22, 1999) ("Broadband Reporting Notice").

<sup>23</sup> NorthPoint Comments, CC Docket No. 99-301 (filed Dec. 3, 1999) at 3 ("NorthPoint Broadband Reporting Comments").

is necessary.”<sup>24</sup> The Commission implicitly recognizes the significance of one-way broadband services by proposing to collect data on the provision of one-way broadband services.<sup>25</sup> For these reasons, NorthPoint supports modifying the definition of “advanced telecommunications capability” to include services that provide 200 Kbps in only one direction.

## V. CONCLUSION


Spurred by recent Commission decisions, NorthPoint has ramped up its deployment of DSL services by expanding its market penetration, entering new markets, targeting residential customers, and providing additional xDSL services as well as value-added services.

NorthPoint’s experience demonstrates that xDSL technology represents the best and most immediate solution to the dearth of competition in the “last mile” for broadband deployment.

RESPECTFULLY SUBMITTED,



Ruth Milkman  
Valerie Yates  
Lawler, Metzger & Milkman, LLC  
1909 K St. NW, Suite 820  
Washington, DC 20006  
202/777-7700



Michael Olsen  
Deputy General Counsel  
NORTHPOINT COMMUNICATIONS, INC.  
303 Second Street, South Tower  
San Francisco, CA 94107  
415/365-6013  
[molsen@northpoint.net](mailto:molsen@northpoint.net)

DATED: March 20, 2000

---

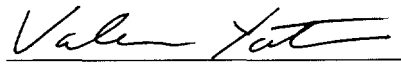
<sup>24</sup> *Id.* at 5.

<sup>25</sup> *Broadband Reporting Notice*, *supra* n. 22, at ¶ 65. NorthPoint supports the Commission’s proposal to impose a mandatory data collection mechanism and to collect data that includes information about lines providing one-way broadband service. *See* NorthPoint Broadband Reporting Comments, *supra* n. 23.



### **CERTIFICATE OF SERVICE**

I, Valerie Yates, do hereby certify that on this day of March 20, 2000, I caused a copy of the foregoing Comments of NorthPoint Communications, Inc. to be served upon each of the parties listed on the attached Service List.

  
Valerie Yates

### Service List

Magalie Roman Salas  
(Orig. & 4 copies)  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room TWB-204  
Washington , D.C. 20554

Lawrence E. Strickling  
Chief, Common Carrier Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room 5-C450  
Washington, D.C. 20554

Robert Atkinson  
Deputy Chief  
Common Carrier Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room 5-C356  
Washington , D.C. 20554

John Berresford  
(2 copies & diskette)  
Senior Antitrust Attorney  
Industry Analysis Division  
Common Carrier Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room 6-A165  
Washington , D.C. 20554

Jack Zinman  
Common Carrier Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room 5-C453  
Washington , D.C. 20554

Peyton L. Wynns  
Chief, Industry Analysis Division  
Common Carrier Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room 6-A224  
Washington , D.C. 20554

Robert Pepper  
Chief  
Office of Plans & Policy  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room 7-C450  
Washington , D.C. 20554

Thomas J. Beers  
Deputy Chief, Industry Analysis Division  
Common Carrier Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room 6-A221  
Washington , D.C. 20554